

**ROUTH CRABTREE OLSEN, P.S.**  
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Honorable Judge Philip H Brandt  
Chapter 13  
Hearing Location: Seattle  
Hearing Date: August 7, 2008  
Hearing Time: 9:00 a.m

IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON

In re:

KAREN D SMITH,

Debtor

Chapter 13 Bankruptcy

No. : 08-13473-PHB

OBJECTION TO CONFIRMATION  
BY COUNTRYWIDE HOME LOANS, INC.

COMES NOW Countrywide Home Loans, Inc., its successors in interest and assigns ("Creditor"), and objects to confirmation of the proposed Chapter 13 plan (The "Plan") of Karen D Smith ("Debtor" herein). The basis for this objection is that the Plan does not comply with the provisions of Title 11, Chapter 13 of the United States Bankruptcy Code and thus should not be confirmed by the Court.

**I. BACKGROUND**

On or about February 9, 2007, Karen D Smith, executed and delivered a note in favor of Mortgage Electronic Registration Systems, Inc. in the original principal amount of \$356,250.00. This Note was secured by a Deed of Trust ('Deed') encumbering real property commonly described as 819 21st Avenue Seattle, WA 98122 ('Property'). Creditor is the holder of the note or services the note for the holder.

On June 5, 2008, Debtor filed for protection under Title 11, chapter 13 of the United States Code under cause number 08-13473-PHB in the above listed court.

1 The outstanding balance due on the Note as of filing is approximately  
2 \$356,250.00. As of the same date the loan is contractually due for the July 1,  
3 2007 payment. The pre-petition arrears, including payments, late charges, escrow  
4 advances and accrued fees and costs are \$44,582.76 per Creditor's filed proof of  
5 claim. The current ongoing monthly payment is \$4,283.43 as of August 1, 2008.

## 6 II. ARGUMENT AND AUTHORITY

7 Creditor objects to confirmation of the proposed Chapter 13 plan because it  
8 is not adequately funded or feasible to cure the loan arrearage owing to Creditor.

9 Under 11 U.S.C. § 1325(a)(5) the Court shall confirm a plan only if as to  
10 each secured claim the claim holder accepts the plan and the plan provides for  
11 distribution to that creditor in an amount not less than the value of the allowed  
12 secured claim. The Debtor proposes a monthly plan payment of \$6,008.00 to fund the  
13 Chapter 13 plan. After deducting the trustee's fee estimated at 7% the ongoing  
14 loan payment owing to Creditor in the amount of \$4,283.43 (plan provides for  
15 \$3,458.59) and an automobile loan payment owing to Waternark Credit Union in the  
16 amount of \$555.00, approximately \$749.01 remains for distribution to creditors.  
17 The Plan proposes a monthly payment of \$235.00 to cure Creditor's arrearage claim.  
18 After adding two post-petition loan payments to the pre-petition loan arrearage  
19 claim as is the practice of the Chapter 13 Trustee, Creditor's loan arrearage  
20 claim will be \$52,324.91. It will take approximately 223 months to cure Creditor's  
21 arrearage claim with a payment of \$235.00. A monthly payment in the amount of  
22 \$873.00 is necessary to cure Creditor's loan arrearage claim within the maximum 60  
23 month plan term. There are insufficient funds to cure Creditor's arrearage claim  
24 during the life of the plan and the proposed payment is not feasible. Therefore,  
25 the Chapter 13 plan is not adequately funded or feasible.

1 Under 11 U.S.C. § 1325 (a)(1) and 1322 (b)(2) a plan must provide for the  
2 cure of an existing default within a reasonable time and require the maintenance of  
3 payments while the case is pending on a secured claim on which the last payment is  
4 due after the date on which the final payment under the plan is due. As noted  
5 above the proposed Chapter 13 plan will not cure Creditor's pre-petition arrearage  
6 claim and therefore cannot be confirmed.

7  
8 **III. CONCLUSION**

9 For all of the above reasons, the proposed chapter 13 plan fails to comply  
10 with the requirements of Title 11 of the United States Code. Therefore, Creditor  
11 respectfully requests the Court deny confirmation of the proposed Chapter 13 plan.

12 DATED July 31, 2008.

13 **ROUTH CRABTREE OLSEN, P.S.**  
Attorneys for Creditor

14 /s/ Jennifer Aspaas  
15 By: Jennifer Aspaas, WBA# 26303  
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